



February 26, 1999

HOUSE BILL No. 1559

DIGEST OF HB 1559 (Updated February 25, 1999 10:41 am - DI 69)

Citations Affected: IC 34-13.

Synopsis: Government immunity for computer errors. Grants immunity to the state of Indiana, a political subdivision, and any employee of the state or a political subdivision from tort liability that results from an act or omission performed in good faith in reliance upon an electronic information system that erred if: (1) the error was caused by the previously undiscovered failure of the electronic information system to correctly process a date of the year 2000 and years following; (2) any loss that resulted because of the error was abated with reasonable promptness and in good faith upon notice of the error; and (3) the governmental entity undertook a reasonable effort to review, analyze, remediate, and test its electronic information systems to discover and correct any failure to correctly process a date of the year 2000 and years following. Provides that the immunity expires June 30, 2003.

Effective: December 31, 1998 (retroactive).

Frenz, Yount, Crooks, Steele

January 19, 1999, read first time and referred to Committee on Judiciary.
February 25, 1999, amended, reported — Do Pass.

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February 26, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1559

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-13-3-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE DECEMBER 31, 1998 (RETROACTIVE)]:
3 Sec. 3. A governmental entity or an employee acting within the scope
4 of the employee's employment is not liable if a loss results from:
5 (1) the natural condition of unimproved property;
6 (2) the condition of a reservoir, dam, canal, conduit, drain, or
7 similar structure when used by a person for a purpose that is not
8 foreseeable;
9 (3) the temporary condition of a public thoroughfare that results
10 from weather;
11 (4) the condition of an unpaved road, trail, or footpath, the
12 purpose of which is to provide access to a recreation or scenic
13 area;
14 (5) the initiation of a judicial or an administrative proceeding;
15 (6) the performance of a discretionary function; however, the
16 provision of medical or optical care as provided in IC 34-6-2-38
17 shall be considered as a ministerial act;

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- (7) the adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment;
- (8) an act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid;
- (9) the act or omission of anyone other than the governmental entity or the governmental entity's employee;
- (10) the issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law;
- (11) failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety;
- (12) entry upon any property where the entry is expressly or impliedly authorized by law;
- (13) misrepresentation if unintentional;
- (14) theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission;
- (15) injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter;
- (16) injury to the person or property of a person under supervision of a governmental entity and who is:
 - (A) on probation; or
 - (B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, or a community corrections program under IC 11-12;
- (17) design of a highway (as defined in IC 9-13-2-73) if the claimed loss occurs at least twenty (20) years after the public highway was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition;
- (18) development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication



1 system; ~~or~~

2 (19) injury to a student or a student's property by an employee of
3 a school corporation if the employee is acting reasonably under a
4 discipline policy adopted under IC 20-8.1-5.1-7(b); ~~or~~

5 **(20) an act or omission performed in good faith in reliance**
6 **upon an electronic information system that erred if:**

7 **(A) the error was caused by the previously undiscovered**
8 **failure of the electronic information system to correctly**
9 **process a date of the year 2000 and years following;**

10 **(B) any loss that resulted because of the error was abated**
11 **with reasonable promptness and in good faith upon notice**
12 **of the error; and**

13 **(C) the governmental entity undertook a reasonable effort**
14 **to review, analyze, remediate, and test its electronic**
15 **information systems to discover and correct any failure to**
16 **correctly process a date of the year 2000 and years**
17 **following.**

18 **However, this subdivision expires June 30, 2003.**

19 **SECTION 2. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1559, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 5 through 17, begin a new line block indented and insert:

"(20) an act or omission performed in good faith in reliance upon an electronic information system that erred if:

(A) the error was caused by the previously undiscovered failure of the electronic information system to correctly process a date of the year 2000 and years following;

(B) any loss that resulted because of the error was abated with reasonable promptness and in good faith upon notice of the error; and

(C) the governmental entity undertook a reasonable effort to review, analyze, remediate, and test its electronic information systems to discover and correct any failure to correctly process a date of the year 2000 and years following.

However, this subdivision expires June 30, 2003."

and when so amended that said bill do pass.

(Reference is to HB 1559 as introduced.)

VILLALPANDO, Chair

Committee Vote: yeas 13, nays 0.

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